REMARKS

Claims 1-29 were examined in the outstanding office action mailed on 07/26/2006 (hereafter "Outstanding Office Action"). All claims were rejected. By virtue of this response, claims 1, 3, 6, 8, 11, 13-16, 18-21, 23, 26 and 28 are sought to be amended, and claims 2, 12 and 22 are sought to be canceled. The amendments and cancellations are believed not to introduce new subject matter, and their entry is respectfully requested. The amendments and cancellations are made without prejudice or disclaimer. Claims 1, 3-11, 13-21, and 23-29 are thus respectfully presented for reconsideration.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-2, 4-6, 8-12, 14-16, 18-22, 24-26 and 28-29 have been rejected under 35 U.S.C. § 102 (e) as being anticipated by United States Publication Number 2004/0103215 naming as inventor Ernst *et al* (hereafter "Ernst"). Applicants traverse at least with respect to previously presented claims 2, 12 and 22 (now sought to be canceled), as explained below.

By virtue of this response, independent claim 1 is sought to be amended to include (at least substantially) the features of original claim 2, independent claim 11 is sought to be amended to include the features of original claim 12, and independent claim 21 is sought to be amended to include the features of original claim 22. Currently amended independent claims 1, 11 and 21 are believed to be allowable over the art of record, as explained below.

For example, currently amended independent claim 1 recites:

> A method of transferring data from a first end system to a second end system, wherein said first end system and said second end system are connected by a network, said method being performed in said first end system, said method comprising:
> *determining whether to send said data in a compressed format*;
> if it is determined to send said data in said compressed format, compressing said data to generate compressed data using a compression approach and sending said compressed data to said second end system on said network; and
> otherwise, sending said data in an uncompressed format to said second end system on said network.,
> *wherein said determining checks a processing load on each of said first end system and said second end system*, and determines not to send said data in said compressed format *if the processing load on either end system is determined to be more than a first threshold.*

(*Emphasis Added*)

Thus, the method of currently amended independent claim 1 checks a processing load on each of the first end system and the second end system to determine whether to send data in a compressed format, and determines not to send data in the compressed format if the

5   processing load on either end system is determined to be more than a first threshold.

In sharp contrast, Ernst teaches:

> The invention relates generally to data compression *and more particularly to server-side only techniques for the selective compression of data* based on user-specified controls in an web-based operating environment. As used herein, the
10   phrase *"server-side only" refers to techniques that rely on the execution of routines on a server computer system* and, in particular, *do not rely on or require the installation and operation of special purpose software or hardware on a client computer system specifically designed to operate with those routines*.
> (Page 2, Paragraph 0019 of the specification, *Emphasis Added*)
15   > In one embodiment, if previously compressed data is not available (the "NO" prong of decision block 420), a further check is made to determine if the central processor unit executing routine 315 and/or designated to compress data for routine 315 is below a specified utilization (decision block 430). *The check of block 430 may be performed to ensure that server 305 (or a functional unit associated with server*
20   > *305) is not tasked to perform a computationally intensive job* (the act of compressing data) if it is already heavily utilized for other tasks ... *If routine 315's processor's utilization is at or above the specified threshold (the "YES" prong of decision block 430), data received from web server 310 during the acts of block 405 is passed or relayed to browser 325 without further processing* (block 415). (Page 3, Paragraph
25   > 21 of the specification, *Emphasis Added*)

Thus, Ernst teaches using "server-side only" techniques, and is believed to not go as far as suggesting (the claimed feature) that the "server-side only" techniques would check the processing load on the client computer systems.

Furthermore, Ernst appears to teach away from the feature of claim 1 in stating that
30   the server-side only techniques "... do not rely on or require the installation and operation of special purpose software or hardware on a client computer system specifically designed to operate with those routines."

Currently amended claim 1 is thus believed to be allowable over Ernst. Dependent claims 3-10 are allowable at least as depending from an allowable base claim 1.

Currently amended claim 8 is allowable independently in reciting in relevant parts:

>...wherein said speed is determined by *including a first local time stamp in a packet* sent to said second end system, and *receiving a second time stamp and a third time stamp from said second end system* at a time specified by *a fourth local time stamp*, wherein said second time stamp indicates a time at which said packet is received in said second end system and said third time stamp indicates a time at which said packet is send from said second end system, *wherein said speed is determined based on said first local time stamp, said second time stamp, said third time stamp, and said fourth time stamp.*
>(Currently Amended Claim 8, *Emphasis Added)*

Thus, the method of currently amended claim 8 determines speed of data transfer by including time stamps in packets sent (received) between the first and second end systems.

Ernst, on the other hand, teaches:

>...FIG. 5 illustrates how one embodiment of routine 315 begins the capture of client information (see block 400 in FIG. 4) during establishment of an HTTP connection between browser 325 and web server 310. As shown, HTTP connection setup is initiated when browser 325 transmits Connection Request message 500 to web server 310 via routine 315. On receipt of Connection Request 500, *routine 315 initiates a timer (505).* Web server 310 responds to Connection Request message 500 by issuing Request Acknowledgement message 510. Browser 325, in turn, responds by issuing Connection Acknowledgement message 515. At this point, an HTTP connection between browser 325 and web server 310 is established. Substantially immediately after issuing Connection Acknowledgement message 515, browser 325 issues Get message 520 to initiate transfer of the data for which the connection was established. *On receipt of Get message 520, routine 315 stops the timer (525). The interval measured by the timer approximates the roundtrip time between browser 325 and web server 310 and may be used to determine a transfer rate* (i.e., bytes/second). (Page 3, Paragraph 22, *Emphasis Added*)

Ernst, thus, relies on a timer to determine the speed of data transfer. There does not appear to be any suggestion (in Ernst) of including time stamps in data packets sent/ received between the browser and webserver, as recited by claim 8. Therefore, currently amended claim 8 is believed to be allowable over Ernst.

Currently amended independent claims 11 and 21 are allowable over the art of record for at least some of the reasons noted above. Dependent claims 13-20 and 23-29 are allowable at least as depending from corresponding allowable base claims. Currently

amended claims 18 and 28 are also independently allowable for at least some of the reasons noted above with respect to currently amended claim 8.

Thus, it is believed that all the rejections have been overcome, and applicants respectfully request their withdrawal. The Examiner is invited to telephone the undersigned

5   representative at 707.356.4172 if it is believed that an interview might be useful for any reason.

Respectfully submitted,

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